

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

JUDGE FRANK MONTALVO

MARIA LOURDES VALLES,

Plaintiffs,

v.

COMMUNITY OPTIONS, INC.,

Defendants.

NO.

EP03CA0419

NOTICE OF REMOVAL

Defendants, COMMUNITY OPTIONS, INC. ("Community Options") files this Notice of Removal, removing Cause No. 2003-2733 from County Court at Law No. Three, El Paso County, Texas to this Court pursuant to 28 U.S.C. §§ 1441 and 1332. The grounds for removal of this lawsuit are as follows:

FILING OF ORIGINAL PETITION & RECEIPT BY DEFENDANT

1. On July 1, 2003, Plaintiff Maria Lourdes Valles ("Plaintiff") filed her Original Petition against Community Options in County Court at Law No. Three, El Paso County, Texas, styled *Maria Lourdes Valles v. Community Options, Inc.* No. 2003-2733. Plaintiff's Original Petition asserted discrimination and retaliation causes of action under Texas Labor Code § 21.051 and a claim for workers' compensation retaliation under Chapter 451 of the Texas Labor Code. [Plaintiff's Original Petition]. Plaintiff's Original Petition did not specify an amount of damages sought. [Plaintiff's Original Petition]. On July 18, 2003, Plaintiff filed her First Amended Original Petition. [First Amended Petition].

2. Community Options timely filed its Original Answer and Special Exceptions in state court on July 25, 2003. [Community Options's Original Answer].

3. On September 17, 2003, Plaintiff filed her Second Amended Petition on September 17, 2003. [Second Amended Petition]. That Petition asserted that Plaintiff seeks \$1,000,000.00 in damages in this lawsuit. [Second Amended Petition].

DIVERSITY JURISDICTION

Citizenship

4. The district courts of the United States have original jurisdiction over this action based on complete diversity between the parties, in that every defendant is now, and was at the time the action was commenced, diverse in citizenship from every plaintiff. Plaintiff Maria Lourdes Valles is a resident of El Paso County, Texas and citizen of the State of Texas. Defendant Community Options, Inc. is a corporation incorporated under the laws of the State of New Jersey, with its principal place of business in the State of New Jersey. It is, therefore, a citizen of the State of New Jersey.

Amount in Controversy

5. Community Options reasonably believes that the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Plaintiff's Second Amended Original Petition seeks damages in the amount of \$1,000,000.00 for past and future lost wages and benefits, past and future mental anguish and emotional distress, damage to credit reputation, punitive damages, and attorneys' fees. [Plaintiff's Second Amended Petition].

6. Accordingly, because this civil action is wholly between citizens of different states, and because the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, this Court has original jurisdiction over this cause pursuant to 28 U.S.C. § 1332(a)(1).

PROPER VENUE AND COMPLIANCE WITH REMOVAL PROCEDURE

7. Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court as the district and division embracing the place where the state action is pending.

8. Defendant will promptly give adverse parties written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). Defendant will promptly file a copy of this Notice of Removal with the Clerk of the County Court No. 3, El Paso County, Texas, where the action is currently pending, also pursuant to 28 U.S.C. § 1446(d).

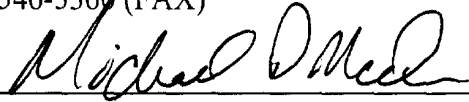
9. A true and correct copy of all process, pleadings, and the orders served upon Defendants in the state court action is being filed with this notice as required by 28 U.S.C. § 1446(a) and attached hereto.

10. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after service of a document which establishes diversity in this case and within one (1) year from the commencement of this lawsuit.

WHEREFORE, Defendant COMMUNITY OPTIONS INC., pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, remove the case styled *Maria Lourdes Valles v. Community Options, Inc.* No. 2003-2733, from County Court at Law No. Three, El Paso County, Texas, on this 9th day of October, 2003.

Respectfully submitted,

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By: 
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing mailed by certified mail, return receipt requested, to Thomas A. Spieczny, Attorney for Plaintiff, 210 N. Campbell, El Paso, Texas 79901 this ~~10~~ day of October, 2003.


WALKER F. CROWSON